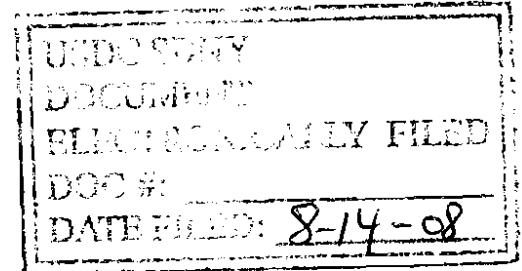


(Keweenaw, J)

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Attorneys for Defendant Merck & Co., Inc.



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: :
Fosamax Products Liability Litigation : 1:06-md-1789 (JFK)
:

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This Document Relates to: :
Rose A. Evans, et al. :
v. Merck & Co., Inc. :
Case No: 1:07-cv-7289-JFK :
:

STIPULATION AND ORDER OF DISMISSAL WITH PREJUDICE

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiffs in the above-captioned case and Defendant Merck & Co., Inc., ("Merck") through their respective undersigned counsel, as follows:

I. This case having been resolved upon the agreement of the Plaintiffs in the above-captioned case to voluntarily dismiss with prejudice their claims against Merck and the agreement of Merck not to seek from Plaintiffs its fees and costs. The following Plaintiffs are hereby dismissed from the above-captioned case with prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(ii):


John Evans;
Elton Ray;
Gloria Simonson; and
Lloyd Smith.

2. Each party is to bear its own costs and attorneys' fees.

Dated: ^{August 12}~~April~~ __, 2008

PHILLIPS & ASSOCIATES


By


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Phoenix, AZ 85012-3049
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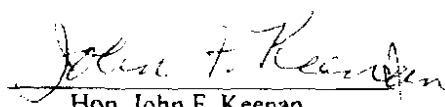
HUGHES HUBBARD & REED LLP

By


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SO ORDERED:


Hon. John F. Keenan